

Application Serial No. 10/796,886
Amendment Dated December 5, 2005
Reply to Office Action Dated October 4, 2005

Remarks

Claims 1, 8 and 9 have been amended, and claims 1-9 remain in the application. Re-examination and reconsideration of the application are respectfully requested.

Claims 1, 4 and 7-9 are rejected under 35 U.S.C. §102(b) as being anticipated by Higgins U.S. Patent No. 403,106. Independent claims 1 and 8 have been amended; and therefore, the discussion to follow will be with respect to the amended claims 1 and 8. As shown in Fig. 1, Higgins relates to a sewer trap for preventing gas and odors from passing back into a building. The sewer trap comprises a box 'A' and body 'B'. Box 'A' is connected to wastewater pipes 'd' and receives wastewater from sinks and tubs and hence, does not contain toilet waste. As wastewater accumulates and rises in box 'A', it flows under hood 'g', through mouth 'k', past valve 'l' and into body 'B'. Pipe 'f' leads from body 'B' to a street sewer. A waste pipe 'r' leading from a water-closet carries refuse or toilet waste into body 'B' via an active running trap having a movable lid 't'. Thus, box 'A' contains only wastewater and body 'B' contains wastewater with toilet waste. A valve 'l' prevents the toilet waste, sewer gases and odors from backflowing from body 'B' to box 'A' and thus, prevents sewer gases and odors from passing back through wastewater pipes 'd' and escaping into the building. The valve 'l' maintains a separation between box 'A' and body 'B' but cannot prevent wastewater with toilet waste in body 'B' from flowing into pipe 'f' and then, into the street sewer.

Applicant submits that the reading of the reference in the Office Action is inconsistent with the literal language of Higgins. The Higgins sewer trap is comprised of the box 'A' and body 'B', col. 1, lines 19-20, and Applicant submits that there is nothing in Higgins stating or suggesting that there are running traps in the pipes 'd'. Further, running traps in the pipes 'd' would be redundant over Higgins running trap of box 'A' and body 'B'; and therefore, Higgins provides no motivation for providing running traps in pipes 'd'. Applicant submits that the centralized Higgins sewer trap performs the same function as, and predates, the running traps 29 shown in the present application. Applicant further submits that a passive running

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trap inherently requires a reservoir to prevent a backflow of gasses and odors, which is the function of hood 'g' and box 'A' of Higgins. The valve 'I' prevents the toilet waste in body 'B' from backflowing into the box 'A'. Further, being located upstream of body 'B' containing toilet waste from the water closet, the valve 'I' is incapable of preventing a flow of the toilet waste from entering the street sewer during a wastewater and/or stormwater backflow condition. Further, Higgins provides no structure capable of detaining wastewater with sanitary sewage from all of the plumbing fixtures in the event of a wastewater and/or stormwater backflow condition as required by claims 1 and 8.

Claims 1 and 8 require running traps for respective plumbing fixtures providing wastewater with sanitary sewage, a sewer service line connected to building drain piping downstream of the running traps, and a flow control device connected in the sewer service line downstream of the running traps. In contrast to the valve 'I' of Higgins being upstream of water closet refuse, the claimed flow control device is not upstream of any plumbing fixture producing wastewater with sanitary sewage; and thus, the claimed flow control device cannot be bypassed by any wastewater with sanitary sewage. When closed by a backflow of wastewater and/or stormwater, the flow control device substantially inhibits a flow of wastewater with sanitary sewage from all of the plumbing fixtures from entering the sewer main. Therefore, Applicant submits that claims 1, 4 and 7-9 are patentable and not anticipated under 35 U.S.C. §102(b) by Higgins.

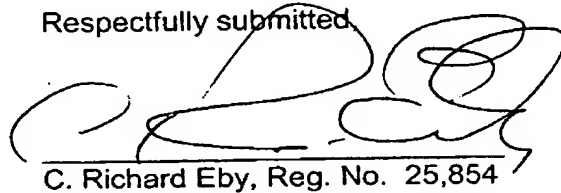
Claims 2 and 3 are rejected under 35 U.S.C. §103(a), as being unpatentable over Higgins U.S. Patent No. 403,106. Claims 2 and 3 are dependent on what Applicant submits to be an allowable claim 1. Therefore, Applicant submits that claims 2 and 3 are patentable and not obvious under 35 U.S.C. §103(a) in view of Higgins.

Claim 5 is rejected under 35 U.S.C. §103(a), as being unpatentable over Higgins U.S. Patent No. 403,106 in view of Smith. Claim 5 is dependent on what Applicant submits to be an allowable claim 1. Therefore, Applicant submits that claim 5 is patentable and not obvious under 35 U.S.C. §103(a) over Higgins in view of Smith.

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Applicant submits that the application is now in condition for allowance and reconsideration of the application is respectfully requested. The Examiner is invited to contact the undersigned in order to resolve any outstanding issues and expedite the allowance of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'C. Richard Eby', written over a horizontal line.

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